P. R. 15 of 96

G. R. S. IX-5]

Previous references.

1895-96
192 .
(L. R.)

File No. 121 of 95

Serial Nos. 1—7

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—7

M ~~Part~~ B for January 1898

SUBJECT.

Appeal of — Vaijnath & Attar, Sellaghatta Taluk regarding the removal of a tree from the Government tope.—

WD 2233—GPB—20,000—14-6-20

Indexed

Destroyed

Submitted to the
2nd Councillor
21/2/96 HCh

Petitions No:— 50: 1-100 dd 8.3.95
and 15, 35 dd 24.3.95

Petitioner :- Nanjundappa, son of Doddi Nanjappa, residing in Attur, Sidagatta Taluk Kolar District.

Subject

Appeal against an order of the 1st Class Tehsildar, Kolar confirming an order of the Special Assistant Commissioner to the effect that Survey No: 61 is a Circar Tope and that petitioner is not entitled to take a mango tree fell in that Tope, blown down by the wind.

Survey No: 61 is a tope to the east of the village of Attur. On the 29th May 1894 a mango tree in the tope was blown down by the wind. On the 30th June the Petitioner put in a petition to the Amildar offering Rs 25 per the tree. The Amildar was ordered to inquire into the matter and in the meantime the tree was kept in the custody of the village servants. On the 8th June 1894 one Doddappa, presented

Statement dd 13.4.95 13.9.95

X. 15 370 2/2 13.3.95

When did the Survey & Settlement take place?
How was the trouble of the tree dealt with before after the survey settlement? Was it sold as amiss
Information on these points must be obtd

X Trees — Atti	— 4	Needs 31.8.96
Jamun	— 2	
Mango	— 30	
Neem	— 6	
Olive	— 11	
Guava	— 1	
Mango	— 3	
Pipal	— 2	
Banyan	— 2	
Total	61	

Draft Letter
Dated 10/9/96

Assistant Commissioner. He sent
for the survey records. In the
Faisal Patrika it was mentio
that the tope Survey No: 68 wa
a Sircar tope. The Govt. Asso
Comr. therefore decided that
nobody, except Govt., had anyth
to the tope and that Petr., who
the meanwhile had taken pos
of the tree shd pay the price.
Against this order Petr. appeal
to the Dy. Comr. on 2nd April/8;
The Dy. Comr. ordered the Amildar to
hold an enquiry and report on the
matter. In the course of the enquir
the records as well as Rama Row an
his brother who were also produced a
the Amildar submitted his report
wherein he says: — "from the record
now produced, it become is clear that
Rama Row's grandfather planted
the tope ---. The endorsement to han-
jindaya was issued on a perusal
of the records produced in the
Taluk. Under the present circum-
stances his claim cannot be main-
tained — Thereupon the Dy. Comr.
passed an order confirming the
penal asst. Com's decision.
~~It is this order that is appealed~~
~~against~~. In his letter No: 2386/627 D/S.1/
the Dy. Comr. writes — "I confirmed

No: 1010 d/o 13.3.95

...ilder examined the parties

No: 150 d/d 10/2/95

this decision in appeal as being just and proper under all the circumstances of the case." (paragraph 6) This order of the Dy. Comr. is now appealed against. The grounds of appeal are:-

(1) That the Amildar of Channapatna when giving the endorsement of 1870 fully enquired into the matter.

(2) That it has been decided by the Yelahanka Munsiff's Court that the title to the topes vests in petrs. father in O.S. No: 17 of 1875 and that this decision has been confirmed, on appeal, by the Judicial Asst. Comr. Bangalore in A.S. No: 30 of 1875.

(3) That Ramappah who originally planted the topes is petrs. great-grandfather. ~~He~~

(4) That the other descendants of this Ramappa were never in possession of this tope.

(5) That all the people of the village know this and will sign a Mahazer, if necessary, to this effect.

(6) That at the time of Survey petr. paid for putting up the boundary marks; but at the time of settlement he was absent as he had gone to Chickballapur in connection with a case.

(7) That the ~~prize~~ trees were quite useless, having been eaten by white ants

*. The reasons assigned by for passing the order appe are:— (1) That the topes a as a Lessee prove at the a ment and that no private rig kind has been recorded in the p taking to the settlement (2) That th in the accts of Sishasti and p years prove that the trees planted for charitable pur that the endorsements of the Dew Amildar of 1870 and 1880 w without proper inquiry and were on vague and unverified repo Shirastdar.

a petition to the Amildar saying that the topic was planted by his grandfather Jangamkoli Ramappa and that therefore he was entitled to take the tree. Petr. also presented a petn on the same date saying that he and his ancestors had been in possession of the topic from a very long time and that therefore the tree should be made over to him. These two petns were examined by the Circle on 13.6.94. Bhappa enumerated the records (but did not produce any) on which he relied. Petitioner presented two endorsements from the Devanhalli Taluk authorising his father to take a mango tree which had fallen down in this topic. He produced certain other documents (which will be described in detail later on). The Circle in his report stated that on enquiry it appeared that Ramindappa the petr had been in possession from a long time. The Amildar decided that petr should take the tree. On 20th September 1894 one Rama Rao (younger brother of the above-mentioned Bhappa) complained to the Dy Comr about this decision of the Amildar. The matter was referred to the General

* No 129 Dy 15.8.94 and No. 209 Dy 4.10.94

@ No. 201 Dy 16.6.94.

and that thereafter the Kanchi Sirkar
by the 10th Cum ± to be received from them
vis, Rs 54, is very slight

The documents on which Sub. relies
are six in number.

⊗ No: 129 J.D 16: 8: 70.

The first is an endorsement granted
by the Devanhalli Amildar to
petr's father Dodda Narasanna —

You presented a petition saying that
the topé has been in your possn from
a long time and that you want to
take a mango tree which has been
blown down by the wind. Your
Amildar's report No: 115 of 1870 says
that the topé has been in your possn
from the beginning. So you may
take the tree.

X. No 209 J.D 19: 10: 80

The second is a similar endorse-
ment to the same man — following

No: 129 J.D 16: 8: 70.

the endorsement which you have
produced, I authorize you to fell
down the uttered mango tree
and take it for yourself.

Y.D 27. 8. 89.

The third is a notice issued to Dodda
Narasanna by the Amildar of Doda
ghatta Taluk — Your petition,
saying that the topé survey No: 68
has been in your possession from
a long time and that it has been
unjustly sold in auction, has been
under order No: 42 referred to me for
detailed report. Therefore you must
come to me with all the records you
have within a week from the service

of this notice.

The petr explains this notice thus — ⊗ In 1889, a general order fixed the income of all tamarind trees ~~on toph~~ in topes shd be sold by auction. According to the practice of this topic also was sold. Thereupon my father complained to the Asst Comr. The matter was referred to the Amildar by under order No: 42. Then Amildar issued this notice to my father. My father produced the records he had and then the sale was cancelled and the produce was made over to my father.

⊗ Vide petr's depn before Shirkdar on 13.6.94.

⊗ No records have been produced to substantiate this statements.

∴ petr's father ∴ vide dpd 8.4.75

The fourth is a notice issued to him by the Judicial Asst Comr of Bangalore. Herein it is said that one Chick Narasanna had appealed to the Judicial Assistant's Court against the decision of the Yelahanka Munsiff in O.S. 170 of 1875 and that his appeal No: 30 would be heard ~~disposed~~ of on 26.4.75. The Appellant is Chick Narasanna living in Attur, Devanhalli Taluk and the Respondent is Doda Narasanna of the same village.

Petr gives the following explanation of this notice: — In July or August 1874 one Mavinakai tree and one Hunnaragi tree in this tope were blown down by the wind. Upon Chicka Narasanna's application, these two were attached and after due

X. Vide petr's depn before Shirkdar on 13.6.94

inquiry the attachment was to be drawn. These trees were used by my father for constructing the house in which I am now living. My father then filed a suit in the Ipda Samka Munsiff's Court against Chicka Ramasamma for damages. Damages were awarded. Chicka Ramasamma appealed to the Judicial Assistants' Court in 53: 1½: 30 of 875. The Munsiff's decision was confirmed.

~~My father has also received~~

Pet½ refers to this decision in his appeal petn 53: 1½ 30 of 875. He says that the it has been decided that the title to this tope rests in his father and that he will produce the decision on the Date of Hearing

The fifth is an extract from the Revenue Register prepared by Chicka Ramasamy on 22.7.92. One Edangi Venkataramanappa obtained a decree against wanted to execute a decree which he had obtained against Ipda Ramasamy, deceased against the legal representatives of Ipda Ramasamy deceased. The tope wanted to have it attached immovable property. When attachments were proceeded and applied for an extract from the Revenue Register. In this extract it is mentioned as follows: — Said Amarayi to the east of the village. Siddan Chandr

Affdvt of
(2). The decree has not been transferred; nor are I have any steps been instituted to prosecute these statements.

Ipda Ramasamy has been instituted

[redacted]. This is the number mentioned
[redacted] Bonoh Patrika. Vide doct.
[redacted] 2 on which Ramakow and
[redacted]bha rely.

of bonoh expenses, d/d 6.11.82, ~~to~~
To ~~Dodda~~ granted to Dodda Rama
Sanna by Shanbogue Appajayya.
It reads thus — The bonoh expenses
of survey No: 62 (old No: 120) which
is in your possession, -- have been
fully paid today.
This receipt was produced with the
appeal petn d/d 18.10.95: It had
been also produced on 22.12.93
before the General Asst Comr in
a criminal case.

The Survey records produced are
a copy of the tippani and a copy
of the Final patrika.
The copy of the tippani is as follows.

Survey No	area	khatab	old No:
68	3-22	3-22	120

Seriar Junior Tope

The Final Patrika of 1888 is ——

Survey No:	area	
68	3-22	Seriar Junior Top

The records on which Rama Row and
Obaliappa rely are ten in number.
The first is an entry in the chitta account of
Sobhanti for 1859.
No: 120 Jangamkote Ramappa's un-
cultivable land. One Tope. old No:;
Beejavari ... an entry in. No Kandayam is entered.
The second is the Bonoh Patrika of

[redacted] Sabha

26. 5. 82.

Current No:	Old Pymaysishi No:	
62	120	Wahiwaldar Jangamkote Obalappa

The third is an entry in the accounts of Rowori ie 1861.

No: 120	Amaraji Khandige Parambok	Jangamkoti Ramappa

No kandayam is entered Dharma Tope

The fourth is an entry in the accounts of Sadharana ie about 1850.

No: 139	Salu tope No kandayam is entered.	Khandige Ramappa.	Dharma Tope

These four were produced by Chicka Narasanna who was formerly Shanbogue of the Village. This is the man who wrote the Extract from the Revenue Register in 1892. @ Document No: 5 on which I relies.

The fifth is a letter written by the Shirkdar of Jangamkoti to the Shirkdar of Kalhalli — You wanted me to send Narappa living in Jangamkote in connection with the tree that has fallen down in the tope just beyond the village of Attur. Accordingly I have sent him.

The sixth is the District Supt's order No: 200 d/d 21. 9. 596 the Amildar of Devanhalli — This petition has been sent to you for detailed reports &c

No: 68. Area 3 acres 22 guntas. ~~Kind~~
Trees are fruit trees of various kinds here.
In the old accts it is mentioned that
this tope was planted for charitable
purposes by Jangamkote Ramappa.
In the survey accts it is entered as
Linear Amarayi. It is said that
that the late Ramappa ~~entrusted~~
~~his father Ramappa~~ for asked
Dodda Narasappa to look after this
tope and that from that time Dodda
Narasappa was in possn of it and
that he was taking the dry wood.
According to Ranjendayya is also taking
the wood from this tope. The Kandayam
is paid to Govt. Gundu Amarayi is
not in his possn. This ~~was planted~~
~~tope~~ Gundu Amarayi was planted
by the ryots in accordance with
the general order issued in 1871-72.
This was at the time of survey added
to Survey No: 69. The boundaries of
Survey No: 68 are: —

East — No: 65 and 66 Kandayam
land of Munisahiva Narasappa

West — No: 70 Kharab

North — No: 67 Kandayam land of
Narasingappa Venkatanarayanappa

South — No: 64 Banjar and No: 69
Amarayi.

The ~~writer~~ is a receipt for the payment

dated by the endorsement order
No: 132 d/d 25.6.57 endorsed on the
former petn in the same matter.

The seventh is a letter from the Shirkdar
of Attur to the Shanbogue based on
Amildar's order No: 19 to Shirkdar following
Dist Supt's order No: 24 d/d 10.2.57 &
the Amildar's order No: 8 has been
received directing that the Attur
branches in the Tope first beyond
the village of Attur should be given
to Jayadevaiah Ramappa's sons Narasimha.
The Huvvarasi branches should also
be given to him.

The eighth is a petition of Narasimha
to the Deputy Amildar d/d 7.7.57
and Amildar's order endorsed thereon
No: 318 d/d 9.7.57 in which Ramappa's
Complains that the Narasimha and others were topping
off the branches of a fruit tree
on the Tope and others were lopping off
the ears in this Tope near
the village of Attur. The Amildar
directs the Shirkdar to send for
the trespassers and take their own de-
positions.

The 5th, 6th, 7th and 8th documents were
produced by Narasimha.

The ninth is a petition of Ramappa
to the Amildar and the Amildar's
endorsement thereon. Ramappa

⊗ petition d/d 9 March 1857 and the Amildar's endorsement No: 190 d/d 26.4.57

Complains that Shanbogue Subbaiya and his sons lopped off the branches of trees in his said tope in Attur Village. The Amildar directs Ramappa to go to the Village and prove this Says the Amildar.

The Suit is for Ramappa's petition to the Amildar dtd 25. 9. 48. The pet^{r} says that the Salu tope was planted by his paternal uncle Doda Ramappa and a Jamma tree and a Mango tree have been taken from there — that one Honigappa claims the tope as his that Honigappa is in no way entitled to the tope and that therefore the trees should be made over to him. Ramappa is the father of Rama Rao and Doddappa The 2nd and 3rd documents were produced by Rama Rao.

Rama Rao produces a copy of the Judgment in Civ^{l} case No: 25 of 1853-4. The complainant was the pet^{r} Nanjundappa. The accd were Chikka Narasamma, Subbamma, Honnappa and Ramappa. The prayer The complaint was that the accd were restrained from cutting the trees. The 3rd and 4th accd did not quarrel with the complt about some water-course in this very tope and them accused Complt. Third accd was fined Rs 2 and 4th accd Rs 3.

4th accd.

It is this ~~case~~ that first offered Rs 25 for the mango tree on 30.5.94 On the 5th June 94 the ~~said~~ he first in another darkhast offering Rs 30 for the tree. On the 25th idem he put in another petn saying that the Amin and Shanbogue are in collusion with Nanjun

Chicka Narasamah in his depn before the Amildar on 29.7.95 says that Nanjundayya's father had been appointed to look after the tope and that he was taking the fallen trees. The same is mentioned in the Extract from the Revenue Register. Rama Rau and Obalgha in their petitions say the same. In his petition of 20.9.94 to the Cmr Rama Rau says that Chicka Narasamma had been appointed; but the contest clearly shews that that is an error and that it should be Dodda Narasamma. In that petn he says also that Dodda Narasamma was allowed to take the dry wood if blown down by the wind. They also say that Dodda Narasamma and Nanjundayya were damaging the tope by felling down the trees; that they were thinking of appointing another man instead of Dodda Narasamma and that in the meantime Dodda Narasamma

x. 2nd Darkhast d/d 25/1/95 to Cmr thro' Cmr
do 16.3.95 to Amildar
do 20.9.94 to 1st Cmr
Obalgha's d/d 1/6/94 to Amildar.

in his deposition before the Sheriff on 13.6.94 says that he does not know how the tope came to be in the possession of his ancestors and that he has no records to show that they got this through Jangamkoti Ramappa

The Amildar examined the parties on 29.7.95. The Sheristadar examined petr. and obdtr on 13.6.94. Jangamkoti Ramappa appeared before the Police officer (who went to Attur to take possession of the tree and make it over to the custody of the Taluk servants) on 31.5.94 and claimed the tope as his.

In his order of 3.8.94 Amildar says that he has held an enquiry at the place and has also seen the tree. The Amildar in his report No: 445 d/d 10.2.95 says that the tope is even now known by the name of Ramappa tope.

On the 31st May 1894 a Mahazer was drawn up. It is mentioned in this that there were 6 cartloads of twigs near the tree and 6 cartloads near Ranjindasya's house and that some stray branches were found in the possession of others.

On 13.6.94 another Mahazar was drawn up. Herein the price of the tree is fixed at Rs 50 and the price of 6 cart-loads of chips near the tree and 4 near Ranjundayya's house (total 10) at Rs 5— the total amount being Rs 55. ⊗

On 5.12.94 the sheikdar reported that Ranjundayya had sold the tree for Rs 14 to some persons in the village, that there were 6 small logs and 4 planks. The price of these small logs and planks was fixed at Rs 2-4-0 by panchayetdars and they were made over to Ranjundayya* on his executing a muchalika on 10.6.95. The panchayetdars remark ~~The Amildar has personally the~~ that these six logs are fit only to be used as firewood and cannot serve any other purpose.

The Amildar has personally seen the tree.

Petr. says that the tree was eaten by white-ants — that the price fixed is very high and that most of the Panchayetdars who fixed the price at Rs 55 are his enemies.

⊗ One man remarks that the tree appears to have been eaten by white ants.

*. Mahazar d/d 10.6.95.

dicit. Thus it appears that both Ramasama and his son have exercised acts of ownership over this toft.

Rāmen Survey No: 60 was entered as a Sircar toft Nobody objected. Ramaswāmi says that as he was employed in a distant place he could not be present at the time of settlement. Nanjundayya says that he was present at the time of Survey and that he paid the Mouth expenses; but that at the time of settlement he had to go away to Chickballapur in Connection with a case. Nobody applied that the entry should be altered and that he should be entered as holder.

Nanjantayya bases his claim upon his long and continued possession. This is what he says in all his petitions. It is only in the appeal petition of 18.10.95 that he says that the original plaintiff Ramappa is his great grandfather. The Sheristadar and the Amildar report that this is a gnati of this Ramappa. Appaji in his dep^{n} before the Amildar on 29.7.95 admits that Nanjundayya is a remote gnati of his. Nanjundayya

(1) petn to Amildar d/d 6.3.95

(2) Appeal petn d/d 18.10.95.

× No: 445 d/d 10.2.95

Petitioner begs that Govt. have recently decided a similar case from Nadiāre in Chintamani Taluk. He applied that this appeal was disposed of & steps should be taken for recovering the price of the tree from him. This has been granted.

A.S.
24.1.96

The records do not show how and on what terms the original planter Ramaiya obtained the land on which the topes now stands. But the old accounts produced clearly show that Rs Kadaramuni was ever paid. Three files wherein Govt. has decided about topes have been submitted with the records. File No: 2 of 1894 Kalabhairi's case is somewhat similar to the present one. There are two letters from the Dy Comr of Kolar in this file which throw some light upon the point in dispute in the present case. The first is No: 3943/960 dd 30.4.94 — "With respect to the enquiry contained in the docket under reference as to whether as a matter of fact dry trees in similar shares topes not in the holding of persons who planted them are allowed to the planters I beg to state that it appears from the Amildar's report that the privilege is conceded in these cases

⊗ On enquiry there, it appears that there are no such cases been decided by Government.

*. Appeal of Satteppa against the Kolar Dy. Comr's order sanctioning the sale of manure collected during the annual jatra in a tope, planted by him and 6 others on a Govt. land at Tavarakai, Kolar Taluk.

in which the topes have been treated as private at the Survey Settlement and the dry wood with the produce of the trees has been ordered to be allowed to the planters, while in the case of topes treated as Crown at the settlement such wood and produce are sold on account of Government.

The second letter is No: 4820/1107 dated 23rd Sept. 1907

"In other Talukas, where the Survey Dept. did not decide as to the ownership of Dharma topes, the claims of the planters or their heirs to dry trees in such topes have, when supported by old accounts and previous enjoyment, been allowed by me subject to the claimants planting fresh trees in lieu of those removed by them.

2. I have deemed this further reference necessary to augment the report as to the practice obtaining elsewhere in the District, the information furnished on the point in my letter quoted above being confined to the Kolar Taluk."

The Govt. order in that case No: 1994/P.190 dated 5/7/94 is — "The Govt. observe that the topes in question was planted on Govt. land in 1876 by the ryots and the other ryots so decided thereafter on the condition (1) that enjoying the usufruct of the land until the trees grew up and (2) of their taking dry trees and branches thereof, and there is

The case was remitted by the Court and parties X In relation to this enquiry X Govt cannot take up the matter decided in the case between the Govt and Gowdas in which is a matter pending in Civil Courts.

4/4/97

Mysore

~~Govt the Collector~~

X Mr Scrimgeour reported that the trees in the case were those of the deceased ryots before referred.

also some evidence to show that the planters of the manure collected in the tope till about 1894.

3rd Mr Lumsden's settlement will not be treated as Kharab and the tope entered as Sirkar tope. The 3rd Cent. says that in the case of similar topes, treated as Sircar topes in the Settlement Dept., the general practice is not to allow the planters to take the dried trees and branches in the tope. i.e. whatever might be the general practice, it is clear that under the conditions on which the tope in question was planted, the planters are entitled to the dried trees and branches which the 3rd Cent. has already conceded. This being so, and the manure collected in the tope, like any trees, not being essential to the maintenance of the claim, the Government cannot to allow the planters in this case to take the manure also, for that they consent to plant new trees in the place of dried trees.

A.S.
14/2/96

Submitted for orders.
14/2. HGL
15/2

Collector

mutt 4/4/97

This case is not distinguishable from the one decided by this order in Re Gadhia No. 1994 / 5.7.94 - 3 - 8 - 4 / 0190 under this heading. Case. There also a public charitable trust had been planted by a private person, and the descendants enjoyed certain qualified rights of ownership, which included, inter alia the enjoyment of said trees. During the Survey settlement the land on which the Jhad had been planted was treated as Khanab, but in the order alone this right was recognized - even after the survey settlement. In this case it was found that the Jhad had been in possession of the Pujaris and that they are Sevaks of the original planter. Under these circumstances it seems equitable

In reply to queries put by this Office, the Diocesan reports

1) That Survey settlement was introduced into the Village in the year 1885-86

2) That the Topes being a Charitable one, the produce of the trees in it was not included in the Survey Tales but was left to the free use of the public both before & after the settlement

Survey settlement has not been introduced in 1885-86, since year had elapsed when petr laid claim to the topes & Petr's claim & the Topes can not be recognised as a speciality case. Right to dry branches & fallen trees does not confer full ownership & this was accepted in Petr's case also.

In the Anekal case (File No II of 1893-94) Petr proved that he had been paying amsam kandayam before the Sunday settlement and he was allowed the option of taking up the Sheist full assessment from the Year of Sunday settlement.

In the present case, Petr has not shown that he has been paying amsam kandayam but the only evidence of his right to dry branches + fallen trees are the two endorsements of the Devanhelli amildar (of the years 1870 + 1880) filed

8/3/97

Mr Greene
order & decree
already passed
needs only
be issued

4/4/97

The drafting clerk will come for instructions as to the endorsement to be drafted

5/4/97

Draft endorsement sent for approval

20/4/97

Stamp Office
In time

Under the provisions of
Section 22 (1) (a) of
the Stamp Act
Refunded
24/10/95

Recovered
25-10-95

Affixed
Rs
25-10-95

Rs. Nil
R. 121-95

I believe this has to be
posted for hearing. Will
the Assistant Secretary please
fix the date?

Prepare a process for sub-
mission to the Commissioner.
15/1/96 HGL

Subd.
This is not a criminal case.
Cause was posted for hearing on 16th inst.
& ordered by the Revenue Commissioner
at that stage, a process will be prepared
as directed.
HL
Office - Prepare process
15/1/96 HGL

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23 1895 (2)

No. 1450

Name of Petitioner, Manjunatha Gowda
Bandalike Timmappa

Village, Kattoor

Taluk, Mangalore

District, Kanara

Date of Arzi, 18-10-95

Date of Receipt, 18-10-95

Date of Disposal,

No. of Enclosure, 3

ABSTRACT.

Appeal against the order of the
Dy. Commissioner, Kanara in No. 10/2-
directing to pay Rs. 5 per house
tax for the year 1895-96 in respect of
Kattoor village. The petitioner
claims that he is not liable to pay
the tax in respect of his house in
Kattoor village as he is a Brahmin
by caste.

The case is posted for hearing
on 25th inst.

Pet 835 ✓ 95

Draft (3)

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition

No. 1450 dated 18-10-95

received at the Dewan's Office from Nanjun-dia, son of Narsamma, residing in Hattur village, Siddaghatta Tk, appealing against the Kolar Dy. comr's order regarding direction recovery of Rs 54/- from the Petr being the value of a mango tree removed by him from the topo Survey No 68 in the village, ~~and praying that the further stay of proceedings for recovery of pending disposal of his appeal~~

is forwarded, together with its three enclosures, to the Deputy Commissioner of the Kolar District for submission of the entire proceedings connected with the case, together with a full report of the facts of the case, and on the points urged in the petition.

3 The petition with its enclosure should be returned.

2. The Dep'y Comr is requested to stay the proceedings for recovery of the above sum pending disposal of the petition.

By order,

25-10-95 Wel

BANGALORE,

Revenue Chief Secretary.

25-10-1895

25

25/10

R. 121-95-2

M.G.C.P.B.—25-1-95—1,000

that in your employment in that on this
one Compound of Jangam[illegible] ~~being~~ having claimed
in the matter the General Assistant Commr.
decided in his proceedings No. 9/13-5-95 that
tree to be sold and praying that the said
order may be cancelled — All the records
in the matter were gone through – you were
also heard in person and ~~examined~~ the matter
was again enquired into and the Amildar's
report was called for and gone through.

The General Assistant Commr. having
found ~~that~~ the order permitting you to remove
the tree – passed by the Amildar without due
enquiry and looking to the two agreements
passed on the strength of the report of the Shekdar
of [illegible] to be incorrect and having learnt
from the records relating to the subsequent investigation
in the matter that tope Survey No. 18 having been made
in [illegible] and No. 33 in [illegible] was known as
Compound [illegible] that you were a Trustee of
the said Compound – that there were [illegible]
than yourself – and that during survey settlement the
tope was decided to belong to Govt. decided to recover from you
the value of the materials removed by you and to sell the remaining
materials. The above order held ~~correct~~ ~~and~~ your appeal
is rejected.

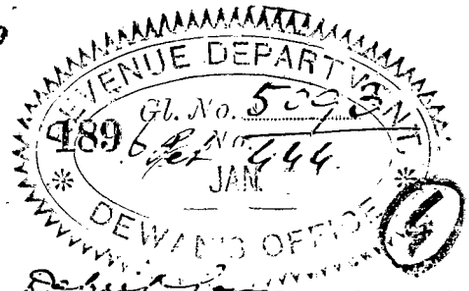
The grounds of appeal are in English.

Prays that pending disposal of this appeal
orders may be issued to stay the recovery of the
value of the tree.

21/10
BK

835 26

Gen. 31]



From The Deputy Commissioner
Kolar district

To The Revenue Secretary
to the Govt of Mysore

A.R. 121—98-3

Dated 5th January 1896

Despatched 6th

Received

General No. 2385
No. 627

Enclosure No. 1 file

Reporting on the returns from Kunjoondrah Tongetandanna regarding the attempt, subsequently taken

Ger. Report
8/1/96

Jangam Kaka Ramappa alleged
Mobbe the petitioners distant cousin
3 The petitioner has no evidence to
adduce in support of his claim to
the tope beyond two endorsements
issued without proper enquiry by
the amildar of Devanahally Taluk
the amildar of Devanahally Taluk
in 1870 and 1880 respectively permitting
his father Dodda Narasanna to remove
a fallen or dried mango tree in it.
4 These endorsements would seem to
have been based on a false and unwar-
-ful report of the Mohly shekdar to
the effect that the tope had been in the
undisturbed enjoyment of the petitioner's father.—
5 One Rachappa, grandson of the
original planter, says that the petitioner
has no right whatever to the tope which
was planted by his ancestor for a
public and charitable purpose and
pray that the same may be granted
to him as the proper shekdar or pujaree
exclusively under government management
6 The General Assistant Commissioner
before whom the matter came up de-
cided that the petitioner had no right
to the tope, that the same should be
treated as a Sircar Amarayee in ac-
cordance with the Survey settlement
and that the value of the mango
tree unauthorizedly removed from it
by the petitioner should be recovered
from

from him I confirmed this decision in appeal as being just and proper under all the circumstances of the case. –

7 The recovery of the value of the tree from the petitioner has been ordered to be held in abeyance pending the disposal of this appeal to Government. –

8 The Vernacular proceedings bearing on the subject as per Accompanying Index are herewith submitted for reference and obliging return when no longer required. –

I have the honor to be,
Sir
Your most Obedient Servant

Narayan Aiyangar
for Deputy Commissioner

Tour

Deputy Commissioners Office
Klondike
Date 5th January 1896

To
The Private Secretary to the
Government of Alaska
Sitka

Sir

I am directed by the Deputy Commissioner to enclose herewith a Petition from Alexander Carmack, Discoverer of Rabbit Creek, asking for the grant of a Creek claim thereon, and to request that you will direct the Recorder at Juneau to issue the same to him.

I am also directed to state that the Petitioner has complied with the Regulations governing the location of Creek claims, and that the Commissioner recommends that the claim be granted.

I am, Sir,
Your obedient servant,
[illegible]

X. Alexander
Discoverer
Rabbit Creek

Gen. 31.]

1896 Pet 4444/399

From The Deputy Commissioner
Kolar District

To

The Secretary to the Government
~~Dewan~~ of Mysore.
Revenue & General Department

Dated 30th December 1896
Despatched 5-1-97
Received
General No. 2461
No. 602
Enclosure No. 1 file

His Docket No. 2836
P.715-96
dated 12th September 1896
calling for further information, in connection with the petition of Ranjundayya of Attur Siddaghatta Talug laying claim to a mango tree in the tope in Survey No. 68 of the said village.

In resubmitting as per accompanying Forist the records received with the above

March
1/97
R.R. 121-95-5
R 6/1
with reference.
8/1
with reference to the
Council's order on
his
2nd councillor
M2
9/1/97
1/
is another
petn case
on which I
have made
some remarks
This is another.
Petn was also
with the record
& we have
no more wanted
3/2/97

above, has the honor to state that the village in question was brought under Survey Settlement in the year Parthiva (1885-86)

2. It would appear from the amildar's report attached to the enclosed file that the tope under notice being a charitable one, the produce of the trees in it was not included in the amarayi Sales, but was left to the free use of the public both before and after the Survey Settlement.

For Deputy Commissioner

30

1896

p

No 2836
P.F. 13-96

D 12.9.96
16

Rec'd 14 Nov 96

L.R. 121-95-4

To
The Deputy Commissioner
Kolar District.
Dated. Sept. 1896
His letter no 2386/627
dated 5th January 1896
reporting on the petition
of Ranganayya of Attoor
in the Srilaghutta Taluk
in re the petitioner's claim
to a ~~Canteen~~ tope in the
said village

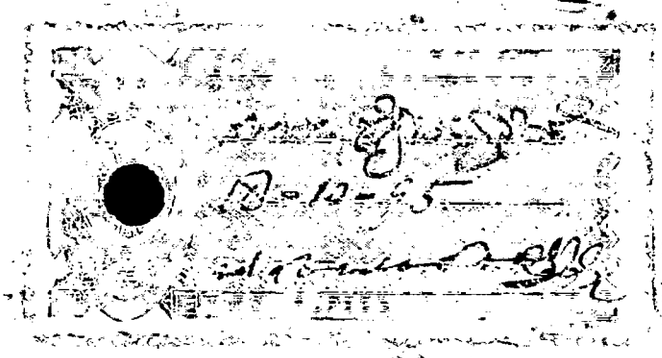
With reference to the above
has the honour to request
that the Dy Commr will
be so good as to state the
how the produce of the
tope in question was dealt
with before & after the
survey settlement and
whether it was sold as
amroi.

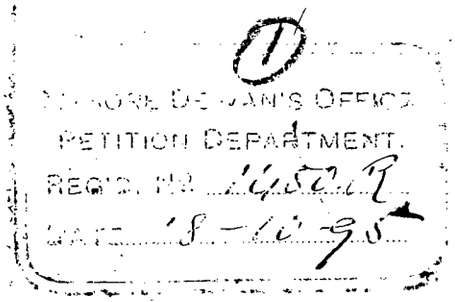
The records received with
the above letter are here
with returned for reference
& resubmission

By order

Draft
C2 [illegible] 1/9
for Secretary

DLL
10/9/96





14.50 Rw 3

Received 18-10-95

To

The President 33
in Council

Highness the
Maharaja of Mysore.

Most Respected Sir.

The undersigned most respectfully begs to bring the following few lines into your Royal kind consideration and hoping thereby that justice is administered in my case.

This is an appeal against the endorsement No. 4 of 1899/95 of the Deputy Commissioner Kolar District. The facts of the case are:—

The Tope in question is situated in Survey No. 68 Attur Village, Near Arabbi Siddapalla Tank. The trees in the Tope were planted by my ancestors about 100 or 120 years back. Ever since then the produce of the said trees and the right of Dried trees and leaves thereof have been in my enjoyment, and of late I have also enjoyed the Topes by planting some more trees in addition to the old ones.

On the 20th May 1894 an accident of heavy wind and rain, a dried mango tree which had eaten away by white ant

whilemats in the trunk of the tree and
fell to the ground. A cousin of mine
named Kisiima Kapaka owing to illfeeling
between him and myself in a criminal
case, lodged a complaint before the
Amilda of Sibinga in the Kalua
stating that he had right to the Kapa and the tree in question.
On an enquiry being held the Amilda
gave an endorsement to one (No. 7 of 7-8-94)
which is herein enclosed to the effect that
the tree in question may be taken
possession of by me. Accordingly I took
possession of the dried morgue tree. Another
cousin of mine named Ramayapaka
petitioned to the General Deputation
Commissioner alleging his right also
over the Kapa. The General Deputation
Commissioner thereon passed an Order
(No 1070 of 13.8.95) to the effect that the
Kapa be taken over by the Government
& that the dried tree be sold by public
auction and a fair valuation to be
fixed and demanded for the portion
already used by me. On appealing
to the Deputy Commissioner against
the General Deputation Commissioners
Order, the enclosed Endorsement
No 4 of 13.9.95 has been given to me.
Hence the appeal before your Honors
Court.

35

The Objections raised in the Endorsement is groundless and is against the law and weight of evidence as will be seen from the following Statements. I submit the petitioner's rights over the Tope which has been in his enjoyment since time of his Ancestors is worthy of your Honors kind consideration.

Points Raised in the Endorsement given by the Deputy Commissioner :-

1. The Village of Attur belonged to the Devanahalli Taluq.

The Amildar of Devanahalli was wrong in Reporting on a Report from the Sheristadar without an enquiry into the case to the effect that petitioner's father's Right remained denied true on a previous occasion.

2. The Survey No: 68 in which the Tope is situated is known as Rama Tope of Ramappa and is included in the accounts of Siddha Hegadahalli.

3. That I am a descendant of Ramappa and there are cousins of mine who are more nearly connected with Ramappa than myself.

4. During Survey the Tope has been classed as Sisa and called according

5. The Deputy Commissioner confirms the Order of the Amildar & Assistant Commissioner.

Corresponding syllabus in
defence to the points raised in the
endorsement of the Deputy Commissioner
1. It is said in the endorsement that
the suicide of Devanahalli Venkat
Rao is an enquiry into my father's night
of Cope. The fact is, did actually
come to the village and being satisfied
with the information regarding the —
Committee of the Cope, he passed favourable
orders on the report of the Shanbhag.
The endorsement No 127 of 1870 to
the same effect has been filed in
the original Records before the Deputy
Commissioner. Further it has also been
decreed in the Civil Court of Yelahanka,
that the right of Cope vests in the name
of my father (Case No: 7 of 1875) and the
same had been confirmed in appeal
in the Bangalore Judicial Deputy
Commissioner's Court (No. 30 of 8.4.75)
Copy of the same will be filed at the
time of hearing.
2. Ramappa is my Great Grand Father
It is he that planted the Cope. Ever
since it has been in our enjoyment
the adjoining villagers and several
Mysore Officers are ready to verify for
the same. I have also filed a petition
to the Deputy Commissioner that a —
Mahazar to the same effect may be made

Neither the Deputy Commissioner nor the Amildar were pleased to order for the said Malaya.

3. There are coconuts to me but neither they nor their fathers ever enjoyed the produce of the tope.

4. During the time of survey I was present in the village and I have put the Boundaries (landmarks) to myself and a receipt by the Amildar for having paid the cost of the landmarks is also herewith enclosed. After the settlement I was away for a case to Chickballapur.

Recently a similar case that has been disposed of by the Government in Madras in Chintamany Taluq.

5. While confirming the order of the General Assistant Commissioners, it is further ordered by the Deputy Commissioner that Rs 54 to be recovered from me as the price of the said tree and the same begiven over to me.

And at these circumstances I most humbly pray that until my case is finally heard and a decision arrived at Your honour cancel the order demanding me for 54 Rs as the price of the tree may be suspended pending final disposal of my "suit" over the tope.

I beg to remain Dear Sir
Respectfully
Yours

(Signed) [illegible] Mayumdar Zamindar of
Narainpur residing
in Allora = Kidderpore
Calcutta =

[illegible]

39

(7) Proceedings of the Board of Revenue

No

Read

(1) Petition No. 403 dated 8th October 1895 from Nanjundaiah of Attur, Siddaghatta Taluk, Tumkur District appealing against the order of the Deputy Commissioner, rejecting his claim to the Sandal trees in Survey No. 0 of Attur Village and directing the recovery of the value of the tree removed by him

(2) Correspondence ending with Deputy Commissioner's letter No. 2401/302 dated 31st December 1896 with Vernacular records received with the above.

Order thereon No. 9076 dated 15-12-96

Government observe that this case is not distinguishable from the one decided in their order No. 1994 P 190 of 3.7.94 and 3.8.94. As in this case there also a public charitable fund has been granted by a private person on Government land, and he and his descendants

(read 1st record)
Checked by S. Sankara Iyer

enjoyed certain qualified rights of
ownership in it, which included
inter alia the enjoyment of its
branches & fruit. During the Survey
settlement the land on which the
Tope has been planted was treated
as Khasra, but in the order above
referred to, the right to enjoy
dried fruit was recognized, even
after the Survey settlement. In
this case it has been distinctly
proved that the Tope had been
in ~~peaceful~~ possession & enjoyment
of the petitioner & his father and
that they are lessees of the
original planter. The condition under
which this Tope was planted was ~~no~~
expressly laid down, but the continued
acts of enjoyment are sufficient
to imply the existence of a condition
that the decayed & fallen trees were
to be appropriated by the planter. Such
those circumstances ~~warrant~~ warrant
the presumption the petitioner to enjoy
the same concession. The public
& charitable character of the Tope
will be maintained by its [illegible]
trustee

as Rs.250/- by the second respondent being the Forest Officer in the matter forming part to the writ and the general conduct of it. But when a tree written and falls down there is no reason why the old practice of allowing it to be taken by the petitioner should be discontinued. The order of the Revenue Commissioner is accordingly set aside & the fine imposed is remitted. The petitioner will also be allowed to take the usual quantity of decayed and fallen trees with the permission of the local authorities. In return for this concession the petitioner should plant two trees in the place of the one decayed, which should be preserved.

2 Government cannot take upon themselves to decide the dispute between the petitioner & his servants which is a matter for adjudication by civil Courts.

Sd/-
C2

20-4-97

To Dy. Conservator of Forests
Nilambur
Copy to Range Officer
Chief Conservator of Forests
Trivandrum

సీఆర్ 1450

19-4-97

L.K. 12/4-97

By Order

Asst. Secretary

13/4/97

References
MK 19-10-97

WS / 1897 (10)

No. 988

Name of Petitioner Rama Rao
Schoolmaster

Village

Taluk Siddaghatta

District Kolar

Date of Arzi 30-9-97

Date of Receipt 15-10-97

Date of Disposal

No. of Enclosure nil

R. Pl-95-8

ABSTRACT.

[illegible] Petitioner states that his grand father planted a tope for charitable purposes in Attur village, Kaivara hobli, Chintamani Taluk, consisting of Several fruit-bearing trees, that the fruits of the said trees were being enjoyed by birds the public and the dead trees and useless branches were disposed by the petitioner family; that in the year 1897 one hundred trees fell down by wind and rain; that one Ranganadaya applied

Ent
21/10/97
MK
20/10/97

Petr's grandfather planted a tope in the Kaivara village which is the bone of contention between petr & opp parties. It has been always enjoyed by the public (Encl 2 to 7)

[Petr pretends that the application before the Collector was not received by him]

Rd 23/10/97

MK 24/10/97

Report & connected papers called for

MK 24/10/97 Ent 25/10/97 Dy Secy

Rec'd

MK 28/10/97

23.10.97

to the Amildar for the removal
of the tree for his privateure;
that the petr also applied to
the Salute for the same
that the Amildar inspected
the place and reported the
matter to the Dy. Collr for
orders; that the Dy Collr
passed orders thereby the
levy of fine of Rs 50/- (as noted)
Said Nanjundaiya who removed
the tree and used it himself
that the said Nanjundaiya
thereupon appealed to Govt
for remission of the fine; that the petr
also had put in a similar
petition claiming the tree;
that no notice was given
him of the date of hearing, that
he hears orders has been
passed by Govt ex parte;
pray that the records
may be again perused, the
petr and the Mysore
of the village enquired and
equitable orders passed
regarding the charitable use
planted by his ancestors, to
set aside and revoke the claim
of Nanjundaiya who is not a
member of his family &c

No. 988

3

Baghpat 18/10/61

H.K
Reference

49

No. P. 11-1-98

To

Sir,

I am directed to say that ...

23- ...

30-9-97 ... D.R. 121-95-G

... dated 7-1-98 ...

By Order

For Secretary

Draft